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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/532,088	11/02/2005	Francois Le Maner	Q86740	8303
23373 7590 08/19/2009 SUGHRUE MION, PLLC 2100 PENNSYLVANIA AVENUE, N.W. SUITE 800 WASHINGTON, DC 20037				
EXAMINER TYLER, STEPHANIE E				
ART UNIT		PAPER NUMBER		
3754				
MAIL DATE		DELIVERY MODE		
08/19/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/532,088

**Applicant(s)**

LE MANER, FRANCOIS

**Examiner**

STEPHANIE E. TYLER

**Art Unit**

3754

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 July 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SF/ICE)  
Paper No(s)/Mail Date 7/15/2009
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 7/15/2009, has been entered.

***Information Disclosure Statement***

2. The information disclosure statement (IDS) submitted on April 21, 2005 was considered by the examiner by the Examiner and mailed with Office Action on September 29, 2008.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-5,12-14,18,19 are rejected under 35 U.S.C. 102(b) as being anticipated by Levy et al. (4,501,360).

The Levy et al. reference discloses a fastener element (11,12,13,12a,13a) on a fluid reservoir (1), the fastener element including a deformable snap-fastener portion (12,13,12a,13a), wherein stiffener means (inner portions of 12 and 13; see fig. 2) are provided inside the deformable snap-fastener portion (12,13,12a,13a); and wherein deformable snap-fastener portion (12,13,12a,13a) consists of a lateral skirt of the fastener element, and a projection (upper projections of 12a,13a; see fig.2) projecting radially inwards from the inside wall (of 14 and 15) of the lateral skirt; and wherein the stiffener means (inner portions of 12 and 13; see fig. 2) are inserted, integrated, sunk, or embedded inside the deformable snap-fastener portion (12,13,12a,13a); and wherein the stiffener means (inner portions of 12 and 13; see fig. 2) consist of one or a plurality of rigid and/or resilient elements; and wherein the rigid and/or resilient element(s) extend in or around the periphery of the deformable snap-fastener portion (12,13,12a,13a); and wherein the fastener element is a snap-fastenable ring (11,11a,11b) having an ferrule portion (longitudinal portions extending upward from 11b; see fig.2) extending inside the case body (1); and wherein the snap-fastenable ring (11,11a,11b) is made from a single plastics material; and wherein the snap-fastenable ring (11,11a,11b) is made from a plurality of different plastics materials (col.1, lines 15-17).

5. Claims 1,15-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Suck et al. (6,021,924).

The Suck et al. reference discloses a fastener element (9) on a fluid reservoir (1,2), a dispenser member (5) mounted to the fluid reservoir (1,2), the fastener element

(9) including a deformable snap-fastener portion (lower end of 9), the fastener element being characterized in that stiffener means (10) are provided inside the snap-fastener portion (lower end of 9); and wherein the dispenser member is a pump (5).

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 6-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Levy et al. in view of Nemoto et al. (4,121,844).

The Levy et al. reference discloses substantially all the structure and functionality of the invention, however the reference lacks the stiffener means to be at least one substantially rigid and/or resilient circular insert.

The Nemoto et al. reference teaches a dust sealing cover (40) with an inverted cup-shaped body (41) having stiffener means consisting of a circular snap ring (43) embedded in the material of the body (41) for the purpose of securing the dust sealing cover to the housing.

Therefore it would have been obvious to one having ordinary skill in the art at the time of the invention to have modified the semi-rectangular stiffener means of Levy et al. with the circular snap ring stiffener means as taught by Nemoto et al. in order to, "ensure a tight seal against the housing" (col.1, line 61).

Re: Claim 7, wherein the inside diameter of the at least one circular insert (43, Nemoto) is not less than the outside diameter of the neck of the reservoir/housing (12, Nemoto).

Re: Claim 8, wherein the circular insert (43, Nemoto) is made as a single part.

Re: Claim 9, wherein the circular insert (43, Nemoto) is constituted by a plurality of insert sections (along 43).

Re: Claim 10, wherein the circular insert (43, Nemoto) is a metal wire (col.4, lines 1-4).

Re: Claim 11, wherein the wire (43, Nemoto) includes a plurality of turns.

The initial statement of intended use and all other functional implications have been carefully considered but are deemed not to impose any patentably distinguishing structure over that disclosed by Levy et al. and Nemoto references which are both capable of being used in the intended manner, i.e., \* (see M.P.E.P. 2111).

### ***Response to Arguments***

8. Applicant's arguments filed 7/15/2009 have been fully considered but they are not persuasive. The Applicant argues that the Levy et al reference does not disclose at least "wherein stiffener means are provided inside said deformable snap-fastener portion" Office disagrees; the shorter length inner reinforce structure of 12 and 13 are the stiffener means that are provided inside said deformable snap-fastener portion. Next, Applicant argues that element 11 of the Levy et al. device does not have a

fastener element "for fastening a fluid dispenser member on a reservoir". The Office disagrees. The fastener element (11,12,13; 12a & 13a) does fasten or keep in place the dispenser member (7,9) on the fluid reservoir (1); and thus Office stands of the rejection above. Also Applicant argues that no structure of Levy et al., inside or outside of elements 12 and 13, "for substantially preventing said deformable snap-fastener portion from deforming after snap-fastening. Office disagrees. Again the shorter length inner reinforce structure of 12 and 13 helps the snap-fastener portion (12,13; and particularly 12a & 13a) from deforming after snap-fastening. Furthermore, Applicant argues that the Levy et al. reference does not disclose at least, "wherein the stiffener element is inserted or embedded inside the deformable snap-fastener portion". Office disagrees; the stiffener element is inserted on the interior structure of 12 and 13 possibly by injection molding process. Moreover, Applicant argues that the elements 10/8- the stiffener means of the Suck reference is not inside element 9- the fastener element. Office disagrees the stiffener means-10/8, is inside of the fastener element 9 in relative to where element 9 is located. Office stands on the rejection above.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to STEPHANIE E. TYLER whose telephone number is (571)272-8059. The examiner can normally be reached on 8:00am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached on 571-272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/S. E. T./  
Examiner, Art Unit 3754

/Kevin P. Shaver/  
Supervisory Patent Examiner, Art Unit 3754